IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 13TH AUGUST 2007 / 22ND SRAVANA 1929

WP(C).No. 24570 of 2007(Y)

PETITIONER:

M/S. HOTEL AMIRTHA (P) LTD.,
THYCAUD,TRIVANDRUM REPRESENTED BY ITS DIRECTOR,
SRI. S.HARIMURALI,
S/O. R.SREEDHARA PANICKER,
HINDU, AGED 45,RESIDING AT"BRINDAVAN"
THYCAUD, THIRUVANANTHAPURAM.

BY ADV. SRI.M.RAMASWAMY PILLAI
SRI.P.M.JOSEPH

RESPONDENTS:

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1. THE STATE OF KERALA REPRESENTED BY ITS
CHIEF SECRETARY, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. COMMERICIAL TAX OFFICER-II
CIRCLE-I, COMMERCIAL TAXES,THIRUVANANTHAPURAM.

3. THE AGRICULTURAL INCOME TAX &
COMMERCIAL TAX OFFICER, THIRUVANANTHAPURAM.

4. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, THIRUVANANTHAPURAM.

BY G.P. SRI. C.K. GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13/08/2007 ALONG WITH WPC 24571 OF 2007 THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 24570 & 24571 OF 2007

Dated this the 13th day of August, 2007

JUDGMENT

Petitioner in both the Writ Petitions is challenging assessment and demand of monthly tax and penalty for April and May, 2007 for the reason that petitioner has not filed returns. In the normal course, petitioner should file appeal against disputed orders. However, I feel one more opportunity can be given to the petitioner to file returns, pay tax and interest for belated payment thereof, and if the same is done, the assessing officer will consider petitioner's case for modification of demand of tax and penalty. W.Ps. are accordingly disposed of directing the petitioner to remit Rs. 2.5 lakhs, that is Rs. 1.25 lakhs each for each of the two months within a period of three weeks from now. Petitioner can file returns in accordance with accounts and claim credit for payment of tax from out of the amount deposited as above. The balance amount will be treated as deposit by the assessing officer to be appropriated against tax or penalty if assessed and demanded. If the petitioner makes payment as above, and file returns, there will be

direction to the second respondent to consider the same with reference to the books of accounts to be produced by the petitioner and thereafter make provisional or regular assessment and consider penalty and pass fresh orders. As and when fresh orders are passed, the present orders will be recalled. However, if the petitioner does not make payment within three weeks, full amount can be recovered after three weeks under the impugned orders and it is open to the petitioner to challenge the said orders in appeals. Recovery proceedings will be kept in abeyance for three weeks from now and if payment is made recovery of balance will stand stayed till final orders are issued as above.

(C.N.RAMACHANDRAN NAIR)
Judge